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(h) *Effective date.* This section is applicable with respect to taxable years beginning after January 15, 1975. However, if a taxpayer wishes to rely on the rules stated in this section for taxable years beginning before January 15, 1975 it may do so, subject to the provisions of paragraph (g) of this section.

(Sec. 381(c)(5) and 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 381(c)(5) and 7805))

[T.D. 7344, 40 FR 2684, Jan. 15, 1975]

§ 1.381(c)(6)-1 Depreciation method.

(a) *Carryover requirement*—(1) *Distributions in taxable years ending before July 25, 1969.* (i) Section 381(c)(6) provides that if, in a transaction in a taxable year which ends before July 25, 1969, to which section 381(a) applies, an acquiring corporation acquires depreciable property from a distributor or transferor corporation which computes its allowance for the depreciation of the property under section 167(b)(2), (3), or (4), the acquiring corporation shall compute its depreciation allowance by the same method used by the distributor or transferor corporation with respect to such property. Thus, if the distributor or transferor corporation used the sum of the years-digits method under section 167(b)(3) with respect to an asset distributed or transferred to an acquiring corporation, the acquiring corporation will be required to use the sum of the years-digits method with respect to such asset acquired. The computation of the depreciation allowance with respect to the property acquired shall be made under the provisions of section 167 and the regulations thereunder.

(ii) The rules provided in section 381(c)(6) and subdivision (i) of this subparagraph will apply only with respect to that part or all of the basis of the property in the hands of the acquiring corporation immediately after the date of distribution or transfer as does not exceed the basis of the property in the hands of the distributor or transferor corporation on the date of the distribution or transfer. For this purpose, the basis of the property in the hands of the distributor or transferor corporation shall be the adjusted basis provided in section 1011 for the purpose of determining gain on the sale or other

disposition of such property. For provisions defining the date of distribution or transfer see § 1.381(b)-1(b).

(2) *Distributions in taxable years ending after July 24, 1969.* (i) Section 381(c)(6) provides that if, in a transaction in a taxable year ending after July 24, 1969, to which section 381(a) applies, an acquiring corporation acquires depreciable property from a distributor or transferor corporation which computes its allowances for the depreciation of the property under subsection (b), (j), or (k) of section 167, the acquiring corporation shall compute its depreciation allowance by the same method used by the distributor or transferor corporation with respect to such property. Thus, if the distributor or transferor corporation used the straight line method under section 167(b)(1) with respect to an asset distributed or transferred to an acquiring corporation, the acquiring corporation will be required to use the straight line method with respect to such asset. Similarly, if the distributor or transferor corporation elected to compute depreciation under section 167(k) with respect to property attributable to rehabilitation expenditures, and such property is transferred to an acquiring corporation, the acquiring corporation will be required to compute depreciation under section 167(k) with respect to the property acquired. The computation of the depreciation allowance with respect to the property acquired shall be made under the provisions of section 167 and the regulations thereunder.

(ii) The rules provided in section 381(c)(6) and subdivision (i) of this subparagraph shall apply only with respect to that part or all of the basis of the property in the hands of the acquiring corporation immediately after the date of distribution or transfer as does not exceed the basis of the property in the hands of the distributor or transferor corporation on the date of the distribution or transfer. For this purpose, the basis of the property in the hands of the distributor or transferor corporation shall be the adjusted basis provided in section 1011 for the purpose of determining gain on the sale or other disposition of such property. For provisions defining the date of distribution or transfer see § 1.381(b)-1(b).

(b) *Portion in excess of distributor or transferor corporation's basis*—(1) *General rule.* With respect to that part of the basis of the depreciable property (other than certain section 1250 property described in subparagraph (2) of this paragraph) which in the hands of the acquiring corporation exceeds the adjusted basis to the distributor or transferor corporation, the acquiring corporation may use any reasonable method of computing depreciation, other than the methods provided in section 167(b)(2), (3), or (4). See paragraph (b) of § 1.167(b)-0 for methods which are acceptable under section 167(a) with respect to such property. See also sections 334(b)(1) and 362(b) for the determination of basis of property in the hands of the acquiring corporation in connection with a transaction to which section 381(a) applies.

(2) *Section 1250 property.* With respect to that part of the basis of section 1250 property acquired after July 24, 1969, which in the hands of the acquiring corporation exceeds the adjusted basis to the distributor or transferor corporation, the acquiring corporation shall be subject to the limitations contained in section 167(j)(4) (relating to used section 1250 property) or 167(j)(5) (relating to used residential rental property). Thus, for example, if section 1250 property which is not residential rental property is acquired in a section 381(a) transaction after July 24, 1969, the straight line method of depreciation (or other method allowable under section 167(j)(4)(B)) is the only acceptable method with respect to that portion of the basis of the property which, in the hands of the acquiring corporation, exceeds the adjusted basis to the transferor or distributor corporation.

(c) *Records required.* Records shall be maintained in sufficient detail to identify any depreciable property to which this section applies, and to establish the basis thereof.

(d) *Agreement under section 167(d).* To the extent not inconsistent with paragraph (b) of this section, an acquiring corporation shall be treated as the distributor or transferor corporation in the case of an agreement between the distributor or transferor corporation and the district director under section 167(d) and § 1.167(d)-1 with respect to

property to which section 381(c)(6) and this section apply. Thus, in the case where the basis of an asset in the hands of an acquiring corporation exceeds the basis of such asset in the hands of the distributor or the transferor corporation, such an agreement will not have the effect of permitting the acquiring corporation to compute its depreciation allowance with respect to such excess basis under the methods provided in section 167(b)(2), (3), or (4). However, the provisions of the agreement will continue to apply with respect to the useful life of the asset.

(e) *Change of method of depreciation.* Although the acquiring corporation is required to use the method of computing depreciation used by the distributor or transferor with respect to depreciable property to which this section applies, such acquiring corporation may use another method with respect to such property if consent of the Commissioner is obtained in accordance with paragraph (e) of § 1.446-1. Further, subject to the provisions of paragraph (b) of § 1.167(e)-1 the acquiring corporation may change from the declining balance method described in section 167(b)(2) to the straight line method without consent of the Commissioner.

(f) *Successive transactions to which section 381(a) applies.* The provisions of this section shall apply in the case of successive transactions to which section 381(a) applies. Thus, for example, if X Corporation, a transferor corporation, used the sum of the years-digits method under section 167(b)(3) with respect to an asset transferred to Y Corporation, an acquiring corporation, in a transaction to which section 381(a) applies, and subsequently Y Corporation, using the same method, transfers such asset to Z Corporation in a transaction to which section 381(a) also applies, then Z Corporation shall be required to use the sum of the years-digits method with respect to such asset.

(g) *Illustration.* The application of this section may be illustrated by the following example:

Example. M and N Corporations compute their taxable incomes on the basis of the calendar year. On December 31, 1959, M Corporation transfers all of its assets to N Corporation in a transaction to which section 381(a)

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applies. Included among these assets is an item of depreciable property which on that date has an adjusted basis (for determining gain) of \$800,000 after M Corporation takes into account for 1959 its allowance for depreciation under section 167(b)(2). The basis attributable to the asset under section 362(b) is determined to be \$900,000 in the hands of N Corporation. Under the provisions of section 381(c)(6) and paragraph (a) of this section, N Corporation is required to compute its allowance for the depreciation of the asset under section 167(b)(2) for 1960 and subsequent years but only in respect of \$800,000 of its basis. N Corporation may use any reasonable method other than the methods provided in section 167(b)(2), (3), or (4) in computing its depreciation allowance of the remaining \$100,000.

[T.D. 6559, 26 FR 2983, Apr. 7, 1961, as amended by T.D. 7166, 37 FR 5246, Mar. 11, 1972; 37 FR 6400, Mar. 29, 1972]

§ 1.381(c)(8)-1 Installment method.

(a) *Carryover requirement.* (1) Section 381(c)(8) provides that if, in a transaction to which section 381(a) applies, an acquiring corporation acquires installment obligations, the income from which the distributor or transferor corporation has elected under section 453 and the regulations thereunder to report on the installment method, then the acquiring corporation shall be treated as the distributor or transferor corporation had properly elected to return income from the sale or other disposition of property giving rise to the obligations on the installment method, then the acquiring corporation shall be required to return the income from all such installment obligations in the same manner and to the same extent as the distributor or transferor corporation, unless consent of the Commissioner to use another method is obtained in accordance with paragraph (e) of § 1.446-1. Amounts received by the acquiring corporation on or after the date of distribution or transfer with respect to an installment sale made by the distributor or transferor corporation will not be taken into account in applying the limitation under section 453(b)(2) with respect to the amount of payments received in the year of sale or other disposition.

(2) Section 381(c)(8) and this section have no application to sales or other dispositions of property made by the acquiring corporation on or after the date of distribution or transfer. For provisions defining the date of distribution or transfer, see § 1.381(b)-1(b). See section 381(c)(4) and the regulations thereunder for rules relating to the proper method or combination of methods of accounting to be used by the acquiring corporation.

(b) *Basis of obligations.* The basis in the hands of an acquiring corporation of installment obligations described in section 381(c)(8) and paragraph (a) of this section shall be the same as in the hands of the distributor or transferor corporation.

(c) *Repossession of property sold in prior years.* If the acquiring corporation repossesses property, previously sold by the distributor or transferor corporation, by reason of default by the purchaser in payment of the acquired installment obligations, then the acquiring corporation shall be treated as though it were the vendor corporation for purposes of determining, under section 453 and the regulations thereunder, the gain, loss, income, or deduction with respect to the property repossessed.

[T.D. 6559, 26 FR 2983, Apr. 7, 1961]

§ 1.381(c)(9)-1 Amortization of bond discount or premium.

(a) *Carryover requirement.* If, in a transaction to which section 381(a) applies, the acquiring corporation assumes liability for the payment of bonds of a distributor or transferor corporation which were issued at a discount or premium, then under the provisions of section 381(c)(9) the acquiring corporation is to be treated as the distributor or transferor corporation after the date of distribution or transfer for purposes of determining the amount of amortization allowable, or includible, with respect to such discount or premium in computing taxable income. Thus, if subsequent to February 28, 1913, a distributor or transferor corporation issues bonds at a premium and the liability for them is assumed by the acquiring corporation in a transaction to which section 381(a) applies, then the net amount of the